

CERTIFIED TRANSLATION

COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
BAYAMON JUDICIAL CENTER  
SUPERIOR COURT

MARISOL APONTE CRUZ

PLAINTIFF

V.

**FEDERAL EXPRESS CORPORATION;**  
INSURANCE COMPANIES A, B and C;  
UNKNOWN NAMES X, Y and Z

DEFENDANTS

CIVIL NO.: D DP2014-0309 (506)

MATTER:

TORTS

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**A M E N D E D C O M P L A I N T**

TO THE HONORABLE COURT:

COMES NOW the plaintiff, Marisol Aponte Cruz, through the undersigned legal counsel and, before this Honorable Court, respectfully STATES, ALLEGES and REQUESTS:

**I. THE PARTIES**

1- THE PLAINTIFF, MARISOL APONTE CRUZ, is of legal age, unmarried, a housewife, and resident of Bayamón. Her phone number is 787-603-5958.

2- THE CODEFENDANT, **FEDERAL EXPRESS CORPORATION**, is a for-profit foreign corporation and it is duly registered in the Department of State of Puerto Rico under registration number 6033, in accordance with the law. Its physical address is: 361 San Francisco Street, Penthouse, Old San Juan, Puerto Rico 00901.

3- THE CODEFENDANTS, COMPANIES X, Y and Z, are insurance companies duly registered in the Department of State, which are directly liable for the allegations contained in the present cause of action. They are the insurance companies that provide coverage to the codefendant, **FEDERAL EXPRESS CORPORATION**, covering this type of claim. They have been assigned fictitious names because their real names are not known as of the date of filing of the present Complaint; once they are learned, they shall be substituted in accordance with the current Rules of Civil Procedure.

I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

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CERTIFIED TRANSLATION

4- THE CODEFENDANTS, UNKNOWN NAMES X, Y and Z, on all of the dates relevant to the facts resulting in this action, the codefendants, whose names and number, whether one, two, or more, are not known by the plaintiff at this time, are liable, along with the other defendants, for the negligent and/or tortious actions of the codefendant agents, as a result of which the plaintiff has suffered the harm claimed in this complaint. Once their real names are learned, they shall be substituted as provided in the current Rules of Civil Procedure.

5- The aforementioned defendants are being sued individually and as owners, employees, agents, representatives, insurers and/or administrators, whether they are natural and/or legal persons, who are jointly and severally liable to the plaintiff for the harm claimed in this complaint.

**II. FACTS**

6- The plaintiff, Ms. Aponte Cruz, lived with Mr. Luis Ángel Pérez Aponte for twelve (12) years. Mr. Luis Ángel Pérez Aponte worked for Federal Express Corporation for 13 years. He started working for Federal Express Corporation in the United States in the year 2000 up to the end of the year 2001, and subsequently started working in Federal Express Corporation in Puerto Rico on August 6, 2002 up to the year 2013, when he passed away on May 14, 2013. During his employment period with the corporation, he made contributions to different benefits, such as retirement (Federal Express Corporation Employee Pension Plan (Pension Plan); Vanguard Target Retirement Plan, and others.

7- On April 29, 2013, the plaintiff, in conjunction with Mr. Pérez Aponte, visited the Offices of a Notary Public, Mr. Juan Ramón Torres Rivera, to execute a Power of Attorney in order to designate Ms. Aponte Cruz as his only beneficiary and assign to her all of the rights to the benefits of Mr. Pérez, in the event of his demise, since this was his will. The "General Durable Power of Attorney" states as follows in Clause Number 5:

“---FIVE: Estate, trust, and other beneficiary transactions: .....“establish a revocable trust solely for the benefit of the principal that terminates at the death of the principal...”.

8- The plaintiff followed the recommendations made by Mr. Charlie Dueño, Executive of Federal Express Corporation, “to the letter”. Subsequently, on April 30, 2013, the plaintiff visited the offices of Federal

CERTIFIED TRANSLATION

Express Corporation and delivered the Power of Attorney. On that occasion, Ms. Aponte was told that if Mr. Pérez had children, which he did, in the event of his demise the monies would be delivered in equal parts. To wit, half to his daughter, Ms. Ruth Pérez Mercado, and the other half to the plaintiff.

9- During the week of May 6 to 10, 2013, Ms. Marisol Aponte once again contacted the offices of Federal Express Corporation by phone to follow up on the acceptance of the Power of Attorney and was told that the offices in the United States had accepted the Power Attorney executed and signed by Mr. Luis Ángel Pérez Aponte and the plaintiff.

10- On May 14, 2013, when Mr. Pérez died, his daughter attended the funeral and started taking the steps for the payment of the monies contributed by Mr. Luis Ángel Pérez Aponte in Federal Express Corporation. As a matter of fact, it should be noted that the one who paid all of the expenses for the burial of Mr. Pérez Aponte was the father of the plaintiff, Ms. Marisol Aponte, Mr. José Enrique Aponte, which amounted to \$1,835.00, money that has not been reimbursed to him, in spite of the request for said purpose made to the daughter of Mr. Luis Ángel Pérez Aponte.

11- The day after his demise, May 16, 2013, the local Federal Express Corporation, (787-602-0086), sent a text message to the phone of the plaintiff asking her to contact the Office in Memphis, Tennessee, at 1-901-434-6151. From said offices she was told that they would be studying the Power of Attorney and that they would let her now, information that was different from the one that she had been informed during the period from May 16 to 10, 2013 [sic], at the local offices in Puerto Rico.

12- Subsequently, from May 24 to 27, 2013, by way of a phone call made to the United States office, our client was told that the Power of Attorney had no effect.

13- In spite of the above, on June 5, 2013, at the offices of Mr. Charlie Dueño, Executive of Federal Express Corporation, she was allowed to sign the Driver Record documents.

14- On June 6, 2013, text messages were sent to Mr. Charlie Dueño with the purpose of finding out what other documents needed to be completed as a requirement to become a beneficiary of Mr. Pérez Aponte, but none of the messages was answered.

CERTIFIED TRANSLATION

15- On June 11, 2013, the plaintiff contacted Ms. Rita Bishop, of the Central Offices of Federal Express Corporation in Memphis, Tennessee, who told her that "nothing can be done with the Power of Attorney," to wit, that said document did not make her a beneficiary.

16- Notwithstanding the above, on June 17, 2013, when the plaintiff contacted the local offices of Federal Express Corporation, they asked her for the "General Durable Power of Attorney," duly registered in the Puerto Rico Supreme Court, to send it to the offices in Memphis, Tennessee, and so the plaintiff delivered it the next day, June 18, 2013. On that occasion, she was asked to carry out the procedures in relation to several documents, such as Death Certificate, Birth Certificate, Driver Record, Divorce Decree, among others.

17- On June 24, 2013, the plaintiff received a letter from Federal Express Corporation regarding the benefits to which the decedent, Mr. Luis Ángel Pérez Ortiz, had a right.

18- On July 1, 2013, Mr. Jesús Campo, of the company called "Vanguard," notified to the plaintiff that she also did not have a right to the Retirement Plan benefits accrued by Mr. Luis Ángel Pérez Aponte during his life.

19- Lastly, on October 16, 2013, the central offices in Memphis, Tennessee informed the plaintiff that they did not receive the Power of Attorney and that they did not work based only on powers of attorney.

20- In short, the plaintiff, believing at all times that the personnel of Federal Express Corporation was acting in good faith and providing her with the correct information, but this was not the case [sic].

21- Subsequently, surprisingly, during the month of August of this year, the daughter of the decedent, Mr. Luis Ángel Pérez Aponte, Ms. Ruth Pérez Mercado, was delivered the money and, as a matter of fact, she was the one that was provided with all of the documents that actually had to be completed and delivered to the offices of Federal Express Corporation to receive the money.

22- Federal Express Corporation acted in a negligent manner by failing to submit the "General Durable Power of Attorney" and/or failing to provide the correct information to the plaintiff regarding the procedures to be followed to become a primary beneficiary. As a matter of fact, the codefendant, Federal Express Corporation, led the plaintiff to error, and so the latter did not comply

## CERTIFIED TRANSLATION

with the basic requirements which Federal Express Corporation, which they had knowledge of or had to comply with, causing financial losses to the plaintiff in this case [sic].

**III. CAUSE OF ACTION**

- 1- The plaintiff is filing the present cause of action under the provisions of:
- 2- Constitution of the Commonwealth of Puerto Rico.
- 3- Articles 1802 and 1803 of the Puerto Rico Civil Code.

**IV. CAUSAL RELATIONSHIP**

23- The defendants acted negligently by failing to submit the "General Durable Power of Attorney" and/or failing to provide the correct information to our client regarding the procedures to be followed to become the primary beneficiary.

24- As a matter of fact, the defendant led the plaintiff to error, and so the latter did not comply with the basic requirements which Federal Express Corporation knew she had to comply with in order to become the primary beneficiary; therefore, they have the legal obligation to compensate the plaintiff for the harm caused to her.

**V. HARM SUFFERED BY THE PLAINTIFF**

25- As a result of depriving her of the benefits to which Mr. Luis Angel Pérez Aponte had contributed, it caused the following harm to the plaintiff:

- |   |   |
|---|---|
| a) Emotional damages, in an amount of at least .....                        | \$ 20,000.00                                |
| b) Damages for mental anguish and suffering, in an amount of at least ..... | \$ 25,000.00                                |
| c) Damages for financial losses   | \$ 5,000.00 in respect of accident/death    |
|   | <u>\$ 25,000.00</u> in respect of insurance |
| <b>TOTAL:</b>   | <b>\$ 75,000.00</b>                         |

26- The present Complaint is hereby amended with the only purpose of including the correct name of the defendant, to wit, Federal Express Corporation. Attached please find a communication received via electronic mail, sent by Mr. Luis Palou, attorney of FedEx Freight, informing the correct the name of the company for which the decedent, Luis Ángel Pérez Aponte, used to work, to wit, **Federal Express Corporation**.

CERTIFIED TRANSLATION


**VI. PRAYER**

**WHEREFORE**, we hereby respectfully request that the Honorable Court, following the applicable proceedings, find IN FAVOR of the plaintiff, and consequently ORDER the defendants to pay to the latter the amounts claimed above, including legal interest, expenses, litigation costs, and a reasonable amount in respect of attorney's fees.

**RESPECTFULLY SUBMITTED.**

In Bayamón, Puerto Rico, today, June 2, 2014.

[signature]  
JOSE ROLANDO SANTIAGO ÁLVAREZ  
RUA 16,035  
ECUADOR L-359 FOREST HILLS EXT  
BAYAMON, PUERTO RICO 00959  
TEL: 787-786-6269/ 627-3033  
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 I, Juan E. Segarra, USCCI #06-067/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.